

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE DEPARTMENT OF TRANSPORTATION

In the Matter of Mathiowetz  
Construction Co. – Training Funds

**SECOND PREHEARING ORDER**

Appearances: Michael A. Sindt and Patrick Whiting, Assistant Attorneys General, 445 Minnesota Street, Suite 1800, St. Paul, MN 55101-2134, appeared on behalf of the Department of Transportation (Department). Douglas P. Seaton, Alec J. Beck and Sara G. Sidwell, Seaton, Beck and Peters, P.A., 7300 Metro Blvd., Suite 500, Minneapolis, MN 55439, appeared on behalf of Mathiowetz Construction Co. (Mathiowetz). Paul W. Iversen, Williams & Iversen, P.A., 1611 West County Rd. B, Suite 208, Roseville, MN 55113, appeared on behalf of Proposed Intervenor, International Union of Operating Engineers, Local 49 (Union).

At the Prehearing Conference on March 28, 2007, the Union gave notice of its intent to petition to intervene. The Prehearing Order issued on April 2, 2007, provided that the Union could file its petition by April 6, 2007. By letter dated April 3, 2007, the Union notified the Administrative Law Judge that it would not petition to intervene. Instead, the parties had agreed that the Union could participate in this proceeding as an interested non-party, with certain rights.

Based on the agreement of the parties, and pursuant to Minn. R. 1400.6200,

**IT IS HEREBY ORDERED:**

1. The Union shall be allowed to participate in this proceeding as an interested non-party with the following rights:
  - a. To be present at all hearings and prehearing conferences, except for any portion of any hearing or prehearing conference that involves discussion of settlement of this matter; and
  - b. To file briefs in this matter with respect to any motion for summary disposition and posthearing briefs, if any.
2. The Union shall not be permitted to:

- a. Participate in discovery;
- b. Cross-examine any witness at hearing unless specifically allowed to do so by the Administrative Law Judge; and
- c. Present any witnesses or documentary evidence.

Dated this 9th day of April 2007.

/s/ Beverly Jones Heydinger  
BEVERLY JONES HEYDINGER  
Administrative Law Judge